



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF THE REGIONAL
ADMINISTRATOR

APR 25 2019

The Honorable Michael J. Dunleavy
Governor of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Governor Dunleavy:

Thank you for your letter dated March 22, 2019, to Mr. Andrew Wheeler, Administrator for the U.S. Environmental Protection Agency. We appreciate you taking the time to write to us about extending the planning and attainment deadlines applicable to the Fairbanks, Alaska, fine particulate matter (PM_{2.5}) nonattainment area. Administrator Wheeler has asked that I respond to you on his behalf.

We acknowledge the particularly challenging air quality problems in the Fairbanks area due to periodic extreme cold weather, smoke that is produced when people burn wood to heat their homes, and other sources of PM_{2.5}. We appreciate the hard work the Fairbanks North Star Borough and the Alaska Department of Environmental Conservation continue to undertake to identify and implement strategies to effectively reduce PM_{2.5} concentrations. We also appreciate the ongoing communication and collaboration between the Borough, ADEC and the EPA, and we remain committed to providing technical assistance as you develop the Serious Area attainment plan. The EPA believes that this collaborative approach is critical to returning air quality to healthy levels throughout the entire nonattainment area.

In your letter and supporting memorandum, you requested that the EPA revise dates associated with the Serious Area attainment plan requirements. Specifically, you requested that the EPA establish a June 30, 2021, deadline for Alaska's Serious Area attainment plan submittal, and that the EPA establish a December 31, 2023, Serious Area attainment date. While we understand that extending these deadlines would further enable the state and the community to develop and implement control strategies for addressing PM_{2.5} pollution in the area, the EPA lacks the authority to grant your requests.

Since initial designation on December 14, 2009, the statutory attainment date for the Fairbanks nonattainment area under the Clean Air Act (CAA) has been the date by which attainment can be achieved as expeditiously as practicable but no later than December 31, 2019. In response to the D.C. Circuit Court of Appeals' 2013 decision in *NRDC v. EPA* concerning proper implementation of the PM_{2.5} NAAQS,¹ the EPA issued a rule extending the Moderate Area attainment plan submission date to avoid the imposition of a *retroactive* deadline, but otherwise noted that *prospective* statutory deadlines still apply.² The D.C. Circuit Court upheld this rulemaking with respect to extension of the already past statutory deadline for moderate areas based on the unique circumstances presented.³ However, the Court made clear that the EPA does not have general authority to revise prospective statutory deadlines for submission of attainment plans or attainment dates of the CAA.⁴ Therefore, the EPA does not have the

¹ 706 F.3d 428 (D.C. Cir. 2013).

² *Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) and 2006 PM_{2.5} NAAQS* (June 2, 2014), 79 Fed. Reg. 31,566, 31,567-68.

³ *WildEarth Guardians et al. v. EPA*, 830 F.3d 529, 540-41 (D.C. Cir. 2016).

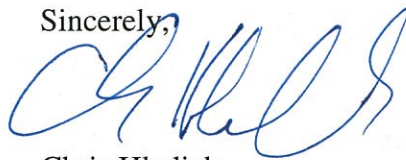
⁴ *Id.* at 539 & 541.

regulatory authority under the CAA to revise the Serious Area attainment date or attainment plan submission deadline.

We understand that the ADEC is in the process of preparing the Serious Area attainment plan for public review and comment with the goal of submitting the plan before the end of this year. We are fully committed to supporting the ADEC and Fairbanks North Star Borough as they implement strategies within the plan to bring the Fairbanks nonattainment area into attainment.

Again, thank you for contacting the EPA on this important air quality issue. If you have any questions, please feel free to contact me or have your staff contact Krishna Viswanathan, Acting Director of the Air and Radiation Division. You can reach Krishna at (206) 553- 0218 or at viswanathan.krishna@epa.gov.

Sincerely,



Chris Hladick
Regional Administrator